

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 United States of America,
5 Plaintiff
6 v.
7 Clifford James Schuett,
8 Defendant
9

2:14-cr-00364-JAD-GWF
Order
[ECF Nos. 235, 236, 237]

10 On April 7, 2015, I sentenced Clifford James Schuett to 75 months in prison after he pleaded
11 guilty to one count of threat to kill or cause damage by explosive.¹ Schuett has now filed a “Motion
12 for a Rule 35,”² a “Motion in support of Rule 35,”³ and a motion for a hearing on these motions.⁴
13 Federal Rule of Criminal Procedure 35 allows a court to correct a sentence that resulted from
14 “arithmetical, technical, or other clear error” within 14 days after sentencing. Schuett’s request for
15 relief under Rule 35 is untimely because I sentenced him more than a year ago. Schuett also has not
16 attempted to show that his 75-month sentence resulted from “arithmetical, technical, or other clear
17 error.” Accordingly, to the extent Schuett seeks relief under Rule 35, his motion is denied.

18 Though Schuett’s filings are difficult to decipher, it appears that he may actually be
19 attempting to challenge the conditions of his confinement rather than the legality of his sentence.
20 For example, he alleges that he has been assaulted and abused in prison and denied medical
21 treatment.⁵ To the extent that Schuett seeks to challenge the conditions of his confinement, he is
22 instructed that the proper vehicle for doing so is to file a civil suit under 42 U.S.C. § 1983, not a
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24 ¹ ECF No. 175.

25 ² ECF No. 235.

26 ³ ECF No. 236.

27 ⁴ ECF No. 237.

28 ⁵ See ECF No. 236 at 1.

1 motion in this closed criminal case. He clearly knows this because he is prosecuting a § 1983 claim
2 in 2:15-cv-00538-LDG-GWF alleging deliberate indifference to his medical needs. If Schuett wishes
3 to pursue a new, non-duplicative claim regarding his conditions of confinement, he must file a new
4 civil action. Any further motions made in this case attempting to challenge the conditions of his
5 confinement made in this case will be summarily denied.

6 **Conclusion**

7 Accordingly, IT IS HEREBY ORDERED that **defendant's Motion for a Rule 35 [ECF No.**
8 **235], Motion in support of Rule 35 [ECF No. 236], and Motion for Hearing on Rule 35 Motion**
9 **[ECF No. 237] are DENIED.**

10 The Clerk of Court is instructed to send to defendant a copy of this order and this court's
11 approved § 1983 form and instructions for the same.

12 Dated this 28th day of July, 2016.

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14 Jennifer A. Dorsey
15 United States District Judge
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